

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**SINA MOAYEDI,  
1810 Kenyon Street, N.W.,  
Washington, DC 20010,**

**Plaintiff,**

**v.**

**U.S. CUSTOMS AND BORDER  
PROTECTION SERVICE,  
1300 Pennsylvania Avenue, N.W.,  
Washington, DC 20229,**

**Defendant.**

**Case No.**

**COMPLAINT**

**I. Introduction**

1. By this action, plaintiff, Montage, Inc. (Montage), seeks an Order from this Court to compel the defendant, United States Customs and Border Protection Service (USCBP), to produce agency records, pursuant to 5 U.S.C. § 552, commonly referred to as the Freedom of Information Act (Act).

**II. Parties Jurisdiction and Venue**

2. Plaintiff, Sina Moayedí is an individual residing at 1810 Kenyon Street, N.W., Washington, DC 20010, and a citizen of the United States.

3. Defendant, USCBP is an agency within the U.S. Department of Homeland Security, with a principal office located at 1300 Pennsylvania Avenue, N.W., Washington, DC 20229.

4. Upon information and belief, USCBP is in possession, custody or control over records to which Plaintiffs seek access.

5. Jurisdiction obtains in this action pursuant to 5 U.S.C. § 552 (a) (4) (B) and 28 U.S.C. § 1331.

6. Venue is appropriate as both of the plaintiffs are residents of the District of Columbia and pursuant to 5 U.S.C. § 552 (a) (4) (B) and 28 U.S.C. § 1391 (e).

### **III. Factual Allegations**

7. Mr. Moayedhi was born in Iran, but he has been a naturalized citizen of the United States since March 12, 1991.

8. Mr. Moayedhi is the president of Montage, Inc., a public construction contractor engaged by the U.S. Government on numerous construction projects throughout the United States and overseas.

9. On November 9, 2004, Mr. Moayedhi was returning to the United States from a business trip to Jamaica to visit a Montage construction project for the U.S. Department of State at the U.S. Embassy in Kingston.

10. After disembarking from his flight at Miami International Airport Mr. Moayedhi was stopped and questioned extensively and his luggage searched by USCBP personnel.

11. Since that date each time he has entered the United States from overseas he has been stopped and interrogated by the USCBP.

12. Each time Mr. Moayedhi has asked why he is being questioned and his luggage searched upon entry to this country but USCBP personnel have been unable or unwilling to answer those questions.

13. On or about November 20, 2004, Mr. Moayedí's counsel submitted a written request on his behalf to USCBP under the Act requesting access to the following records and to documents containing the following information:

- The reason(s) Mr. Moayedí was selected for search by the CBP;
- Whether Mr. Moayedí is on any "watch list" or other list of persons of interest of CBP, or deserves any special attention by CBP;
- Whether CBP has been notified by any other agency or department of the United States that Mr. Moayedí is on any "watch list" or other list of persons of interest, or deserves special attention;
- Whether Mr. Moayedí's passport record or other record on file with CBP contains any notation or indication that he should be stopped and searched or that he should be treated or inspected differently from any other U.S. Citizen;
- All documents and communications by and between the CBP and any other agencies or departments of the United States concerning Items 1 through 4 above;
- All reports, findings or conclusions resulting from the interview and/or search of Mr. Moayedí on November 9, 2004.

A true copy of that letter is attached as Exhibit A.

14. On January 3, 2005, USCBP sent an unsigned form reply letter to Mr. Moayedí's counsel acknowledging the FOIA request and requiring Mr. Moayedí's execution of an included "Release of Records" form authorizing his attorney to receive his records and responsive information. A true copy of that correspondence is attached as Exhibit B.

15. Mr. Moayedí executed that form and returned it the USCBP on January 6, 2005. True copies of the transmittal letter and enclosure are attached as cumulative Exhibit C.

16. Subsequently, Mr. Moayedí did not receive any response or other communication from USCBP.

17. Accordingly, on February 4, 2005, Mr. Moayedí's attorney wrote a letter to USCBP inquiring about the status of his FOIA request and seeking an identification of the FOIA officer handling his request so that person could be contacted directly in that regard. A true copy of that February 4, correspondence is attached as Exhibit D.

18. USCBP has never responded to counsel's February 4, 2005, letter nor has Mr. Moayedí or his attorney received any response or contact from anyone at USCBP.

19. Pursuant to 5 U.S.C. § 552 (a) (6) (A) (i), USCBP was required to determine whether to comply with Plaintiff's request by December 20, 2004.

20. However, USCBP has failed to issue any such determination by that date, nor has USCBP invoked the provisions of 5 U.S.C. § 552 (a) (6) (B) concerning any desired extension of time to respond to Mr. Moayedí's request.

21. Indeed, USCBP has failed or refused to provide any substantive response to Mr. Moayedí's request or to even identify any person that was processing that request for the more than 19 months since that request was submitted.

22. Because USCBP has failed to comply with the time limits set forth in 5 U.S.C. § 552 (a) (6) (A) or to extend those limits under § 552 (a) (6) (B), pursuant to § 552 (a) (6) (C), Mr. Moayedí is deemed to have exhausted all administrative remedies applicable to his request.

#### **IV. Count I**

23. Plaintiff realleges paragraphs 1 through 22 above as though fully set forth herein.

24. USCBP is without any legal or factual basis under the Act or otherwise to deny Mr. Moayedí access to the records he has requested.

25. Mr. Moayedí has an immediate right to review those records under the Act.

**VI. REQUESTS FOR RELIEF**

26. Based on these facts, plaintiff, Sina Moayed, respectfully requests that this Court:

1. On Count I, declare and adjudge USCBP's failure to respond to Mr. Moayed's requests to be a violation of the Act;
2. After notice and hearing, enter an Order enjoining USCBP from withholding records responsive to Mr. Moayed's request and commanding USCBP to produce such records without further delay;
3. Award Mr. Moayed his attorney's fees and other costs reasonably incurred in connection with this action pursuant to 5 U.S.C. § 552 (a) (4) (E);
4. Grant Mr. Moayed such other and further relief as this Court deems equitable and just.

Dated: June 9<sup>th</sup>, 2006.

SINA MOAYEDI

By his attorneys:



Eric R. Stanco  
(D.C. Bar No. 456896)  
Stanco & Associates  
126 C Street, N.W.  
Washington, D.C. 20001  
(202) 331-8822  
(202) 331-9748 (facsimile)

A

COPY

## STANCO &amp; ASSOCIATES

126 C STREET, N.W.  
WASHINGTON, D.C. 20001202 331-8822  
FAX 202 331-9705ALEXANDRIA, VA  
ANNAPOLIS, MD

November 20, 2004

VIA U.S. MAIL

Freedom of Information Act Officer  
FOIA Office  
U.S. Customs Service/  
U.S. Customs and Border Protection  
1300 Pennsylvania Avenue, N.W.  
Washington, DC 20229

Re: Freedom of Information Act Request/Privacy Act of 1974 Request

Dear Sir or Madam:

I am an attorney representing Mr. Sina Moayedhi in a matter not involving the United States Customs and Border Protection Service (CBP). Since the information and documentation requested in this Request is personal and may be confidential to him I have included his Unsworn Declaration authorizing me to submit this Request on his behalf and to have such information and documentation disclosed to me as his counsel.

Mr. Moayedhi is seeking the information and documentation in this Request for personal use and not for a commercial use.

On November 9, 2004, Mr. Moayedhi was returning from a business trip to Jamaica to the United States. He was going through customs at Miami International Airport. After disembarking from American Airlines flight #2192, at approximately 7:30 p.m., he was stopped by CBP and interviewed extensively. In addition, his luggage was searched by CBP personnel.

Pursuant to 5 U.S.C. § 552 (FOIA), as applied by CBP under 19 C.F.R. 103, and to the extent that the Privacy Act of 1974 may apply, Mr. Moayedhi is requesting the following documents and documents containing the following information:

1. The reason(s) Mr. Moayedhi was selected for search by the CBP, as described above;

## STANCO &amp; ASSOCIATES

Freedom of Information Act Officer

November 20, 2004

Page 2

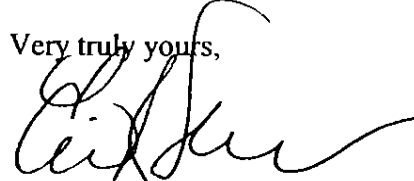
2. Whether Mr. Moayeddi is on any "watch list" or other list of persons of interest of CBP, or deserves any special attention by CBP;
3. Whether CBP has been notified by any other agency or department that Mr. Moayeddi is on any "watch list" or other list of persons of interest, or deserves special attention;
4. Whether Mr. Moayeddi's passport record or other record on file with CBP contains any notation or indication that he should be stopped and searched or that he should be treated or inspected differently from any other U.S. Citizen;
5. All documents and communications by and between the CBP and any other agencies or departments of the United States concerning Items 1 through 4 above;
6. All reports, findings or conclusions resulting from the interview and/or search of Mr. Moayeddi on November 9, 2004.

I am willing to pay any applicable fees for this Request.

If you have any questions or problems, please do not hesitate to call at the above telephone number.

Thank you for your consideration and assistance in this matter.

Very truly yours,



Eric R. Stanco

ERS:lmj  
Enclosure

cc: Mr. Sina Moayeddi (w/o enclosure)  
Ms. Nanette Stokes (w/o enclosure)



**Unsworn Declaration of Sina Moayed**

I, Sina Moayed, pursuant to 28 U.S.C. § 1746, do hereby declare:

1. My name is Sina Moayed. My residential address is; 1810 Kenyon St, NW, Washington, D.C. 20010.
2. I am a naturalized citizen of the United States of America, and I hold a U.S. passport numbered 016450956.
3. Eric R. Stanco of Stanco & Associates, located at 126 C Street, N.W., Washington, DC 20001, is my attorney.
4. Mr. Stanco is authorized to request information and documentation on my behalf which may include personal and confidential information about me, and to request such information and documentation be disclosed and delivered to him.
5. My Stanco's authority includes any such request to the United States Customs and Border Protection (formerly known as U.S. Customs Service), and any related bureau, agency or department of the United States.

I declare under the penalties of perjury this 22 day of November, 2004, that the foregoing is true and correct to the best of my knowledge and belief.

A handwritten signature in black ink, appearing to read 'Sina Moayed', is written over a horizontal line. The signature is stylized with a large loop at the beginning and a long, sweeping tail.

B

U.S. Department of Homeland Security  
Washington, DC 20229



U.S. Customs and  
Border Protection

JAN 31 2005

DIS-6-OFO:FP MYW  
2005F1022

Mr. Eric R. Stanco  
Attorney at Law  
126 C Street  
Washington, D.C. 20001

Dear Mr. Stanco:

This is to acknowledge receipt of your letter requesting access to records, pursuant to the Freedom of Information Act (FOIA) and/or Privacy Act.

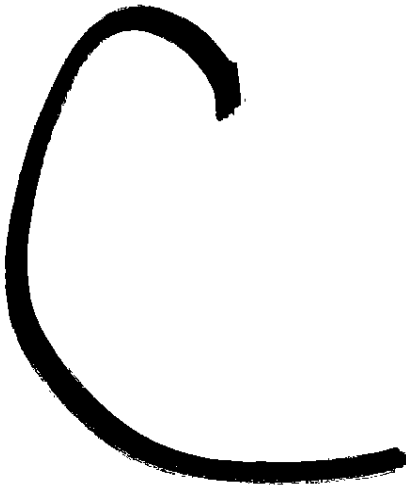
The U.S. Customs and Border Protection (CBP) processes requests in order of their receipt. Accordingly, we must first process requests previously received from other persons and organizations. We currently have a tremendous backlog and will act with all due diligence by allocating the resources available within this office to process your request as soon as possible.

Before we can release any personal records, it is a requirement that the claimant submit the enclosed Request for Records form. This statement will declare Mr. Sina Moayedı identity, address, date of birth, and will stipulate Mr. Moayedı understanding that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to \$5,000.

For your convenience, we have enclosed the proper form for Mr. Moayedı to complete and return to this office. Once we receive the properly completed form, we will be able to process your request. In order to expedite your request, you may fax the completed form to the Customer Satisfaction Unit – FOIA Desk at (202) 344-2791. Please include file number **2005F1022**.

Thank you.

Enclosure

A large, thick, black handwritten letter 'C' is centered on the page. The stroke is bold and slightly irregular, typical of a handwritten mark.

**STANCO & ASSOCIATES**  
**126 C Street, N.W.**  
**Washington, D.C. 20001**  
**Tel.: (202)331 - 8822**  
**Fax: (202) 331 - 9705**

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**FACSIMILE COVER SHEET**

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TO: USCBP - FOIA Desk

DATE: January 7, 2005

FACSIMILE NO.: 202-344-2791

TIME:

FROM: Eric R. Stanco

FILE NO.: 00851

RE: **Your File No. 2005F1022**

NO. OF PAGES TO FOLLOW: 2

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THIS MESSAGE SENT FROM A PANAFAX FACSIMILE WHICH SENDS AND RECEIVES AUTOMATICALLY WITH ALL GROUP CAPABILITY. TO CONTACT OUR OPERATOR, PLEASE CALL: (202) 331-8822.

**STANCO & ASSOCIATES**126 C STREET, N.W.  
WASHINGTON, D.C. 20001202 331-8822  
FAX 202 331-9705ALEXANDRIA, VA  
ANNAPOLIS, MD

January 6, 2005

**VIA FACSIMILE**Customer Satisfaction Unit - FOIA Desk  
U.S. Customs Service and Border Protection  
1300 Pennsylvania Avenue, N.W.  
Washington, DC 20229**Re: Your File Number: 2005F1022**

Dear Sir or Madam:

I am the attorney representing Mr. Sina Moayedí in connection with his FOIA request and an matter unrelated to the United States Customs and Border Protection Service (CBP).

I have received your letter of January 3, 2005, acknowledging the FOIA request and requiring execution by Mr. Moayedí of an authorization for me to receive his records and responsive information. As you requested, attached is the executed Release of Records form.

Please do not call if you have any questions or problems.

Thank you for your consideration and assistance in this matter.

Very truly yours,



Eric R. Stanco

ERS:lmj  
Enclosure

cc: Mr. Sina Moayedí (w/ enclosure)

## REQUEST FOR RECORDS

I, Sina Moayedi  
(print full name)

request access to records maintained by the U.S. Customs and Border Protection, which pertains to me.

My present address is 1810 Kenyon Street NW  
Street

20010 USA  
City State/Province Zip Code Country

My last former address was 1810 Ingleside Terrace, N.W.  
Street

20010 USA  
City State/Province Zip Code Country

My date of birth is May 19, 1955

I understand that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine up to \$5,000. I also understand that any applicable fees must be paid by me.

I request that any located and disclosable records be forwarded to:

Name of individual c/o Eric R. Stanco, Esq.

Address 126 C Street NW  
Street

Washington DC 20001 USA  
City State/Province Zip Code Country

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Jan 5, 2005 [Signature]  
Date Signature

Note: The signature on this request is not required to be notarized; however, severe penalties may apply for false identification.

**\*Request received without a background letter cannot be responded to.\***

Mail or Fax to: U.S. Customs and Border Protection

Freedom of Information Act/Customer Satisfaction Unit

Room 5.5-C

1300 Pennsylvania Avenue, NW

Washington, D.C. 20229

Fax: 202-344-2791

Revised August 2004

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\*\*\* TX REPORT \*\*\*  
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TRANSMISSION OK

TX/RX NO	0867
DEPT. ID	0000851
RECIPIENT ADDRESS	3442791
DESTINATION ID	
ST. TIME	01/07 01:58
TIME USE	00'32
PAGES SENT	3
RESULT	OK

**STANCO & ASSOCIATES**  
126 C Street, N.W.  
Washington, D.C. 20001  
Tel.: (202)331 - 8822  
Fax: (202) 331 - 9705

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### FACSIMILE COVER SHEET

TO: USCBP - FOIA Desk

DATE: January 7, 2005

FACSIMILE NO.: 202-344-2791

TIME:

FROM: Eric R. Stanco

FILE NO.: 00851

RE: Your File No. 2005F1022

NO. OF PAGES TO FOLLOW: 2

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THIS MESSAGE SENT FROM A PANAFAX FACSIMILE WHICH SENDS AND RECEIVES AUTOMATICALLY WITH ALL GROUP CAPABILITY. TO CONTACT OUR OPERATOR, PLEASE CALL: (202) 331-8822.



D

**STANCO & ASSOCIATES**126 C STREET, N.W.  
WASHINGTON, D.C. 20001202 331-8822  
FAX 202 331-9705**FILE**ALEXANDRIA, VA  
ANNAPOLIS, MD

February 4, 2005

**VIA U.S. MAIL**Customer Satisfaction Unit - FOIA Desk  
U.S. Customs Service and Border Protection  
1300 Pennsylvania Avenue, N.W.  
Washington, DC 20229**Re: Your File Number: 2005F1022**

Dear Sir or Madam:

I am the attorney representing Mr. Sina Moayed in connection with the above-referenced Freedom of Information Act (FOIA) request numbered 2005F1022 (Request) to the United States Customs and Border Protection Service (CBP). I submitted the Request to your office on November 20, 2004. On January 6, 2005, I also provided the executed Release of Records form that you required.

Since then I have not received any information from your office nor have you provided any indication when I could expect a response from your office. Although I am aware that your office is extraordinarily busy, and I am confident that you are making a good faith effort in this matter, I am troubled by the lack of response to this point. Indeed, judging by the mere form letter received to date it is not even clear that anyone from your office has been assigned to handle this matter.

Under these circumstances, I am requesting a response from your office concerning the status of the Request and CBP's efforts. I would particularly appreciate an identification of the FOIA officer that is handling this matter so I could contact that person directly in the future. Thank you for your anticipated courtesies and cooperation in this matter.

Very truly yours,

  
Eric R. Stanco

cc: Mr. Sina Moayed